



House of Representatives

General Assembly

File No. 542

February Session, 2006

Substitute House Bill No. 5695

House of Representatives, April 18, 2006

The Committee on Appropriations reported through REP. MERRILL of the 54th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CONSTRUCTION OVERSIGHT AT THE UNIVERSITY OF CONNECTICUT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2006*) The Board of Trustees for
2 The University of Connecticut shall select and appoint independent
3 auditors, as defined in subdivision (7) of section 4-230 of the general
4 statutes, to annually conduct a financial audit of any project of
5 UCONN 2000, as defined in subdivision (25) of section 10a-109c of the
6 general statutes, as amended by this act. The Board of Trustees for The
7 University of Connecticut shall ensure that the auditors have
8 unfettered access to any documentation the auditors need to review
9 any such project. The auditors appointed pursuant to this section shall
10 serve in such capacity for three consecutive years and shall not be
11 reappointed at the expiration of such period. Any such auditor
12 appointed pursuant to this section shall not be otherwise employed by
13 the university during such period.

14 Sec. 2. (NEW) (*Effective July 1, 2006*) The Board of Trustees for The

15 University of Connecticut shall annually review reports of a financial
16 audit of any project of UCONN 2000, as defined in subdivision (25) of
17 section 10a-109c of the general statutes, as amended by this act,
18 pursuant to section 2-90 of the general statutes, and section 1 of this
19 act. Such review shall be conducted by the board without the presence
20 of university staff members.

21 Sec. 3. (NEW) (*Effective July 1, 2006*) (a) There is established a
22 construction management oversight committee consisting of (1) four
23 members appointed jointly by the Governor, the speaker of the House
24 of Representatives, the majority leader of the House of
25 Representatives, the minority leader of the House of Representatives,
26 the president pro tempore of the Senate, the majority leader of the
27 Senate and the minority leader of the Senate, and (2) three members
28 appointed by the Board of Trustees for The University of Connecticut.
29 The Board of Trustees shall replace any such committee member
30 appointed by said board, if such committee member's term on the
31 board expires, or otherwise ends. The appointed members shall
32 include members who have expertise in the field of construction
33 management. The chairperson of the committee shall be designated by
34 the Governor. All appointments of the initial committee shall be made
35 no later than July 20, 2006, and shall be in terms that are staggered.
36 Such appointments shall be for four consecutive years and no member
37 may be reappointed to the committee. Not later than July 20, 2010, and
38 every four years thereafter, a new construction management oversight
39 committee shall be appointed in accordance with the procedures for
40 appointment set forth in this section. A majority of the voting members
41 of the committee shall constitute a quorum for the conduct of business.
42 The committee shall act by a majority vote of the appointed members.
43 The committee shall maintain a record of its proceedings in such form
44 as it determines, provided such record indicates attendance and all
45 votes cast by each appointed member.

46 (b) The construction management oversight committee established
47 pursuant to subsection (a) of this section shall review and approve the
48 policies and procedures developed by The University of Connecticut

49 to undertake any project of UCONN 2000, as defined in subdivision
50 (25) of section 10a-109c of the general statutes, as amended by this act.
51 Such committee shall prepare biennially a summary of construction
52 performance of UCONN 2000 based on reports submitted at least
53 quarterly by the construction assurance office established pursuant to
54 section 4 of this act, and shall, upon the completion of each named
55 project pursuant to section 10a-109e of the general statutes, conduct a
56 review of the university's management of such project for its
57 conformance with the applicable policies and procedures governing
58 construction undertaken pursuant to section 10a-109n of the general
59 statutes, as amended by this act. Such review shall incorporate
60 information, including, but not limited to, that which is derived from
61 reviews of the reports submitted at least quarterly by the construction
62 assurance office, in accordance with section 4 of this act.

63 (c) The construction management oversight committee established
64 pursuant to subsection (a) of this section shall approve the policies and
65 procedures of the university, as defined in subdivision (26) of section
66 10a-109c of the general statutes, as amended by this act, governing the
67 selection of design professionals and contractors, as defined in
68 subdivision (27) of said section 10a-109c, award of goods and services
69 contracts, contract compliance, building and fire code compliance,
70 deferred maintenance, as defined in subdivision (29) of said section
71 10a-109c and an annual budget for such maintenance prepared
72 pursuant to section 9 of this act, project and program budgets and
73 schedules and the authorization and review of contract changes.

74 (d) The construction management oversight committee established
75 pursuant to subsection (a) of this section shall, upon completion of
76 each summary, report and review conducted pursuant to this section,
77 submit such summaries, reports and reviews to the Board of Trustees
78 for The University of Connecticut. The board shall review each such
79 summary, report and review without the presence of university staff
80 members.

81 Sec. 4. (NEW) (*Effective July 1, 2006*) Not later than August 1, 2006,

82 the Board of Trustees for The University of Connecticut shall establish
83 the construction assurance office. Positions in the office shall be paid
84 positions. The office shall be led by a full-time director who shall be
85 responsible for reviews of construction performance of UCONN 2000,
86 as defined in subdivision (25) of section 10a-109c of the general
87 statutes, as amended by this act, and shall report at least quarterly to
88 the construction management oversight committee in accordance with
89 section 3 of this act and to the president of The University of
90 Connecticut.

91 Sec. 5. Subsection (b) of section 10a-104 of the general statutes is
92 repealed and the following is substituted in lieu thereof (*Effective July*
93 *1, 2006*):

94 (b) The board of trustees shall: (1) Review and approve institutional
95 budget requests and prepare and submit to the Board of Governors of
96 Higher Education, in accordance with the provisions of section 10a-8,
97 the budget request for the university and all branches thereof; (2)
98 propose facility planning and capital expenditure budget priorities for
99 the institutions under its jurisdiction; [and] (3) fulfill requirements
100 concerning the auditing and review of projects of UCONN 2000 in
101 accordance with sections 1, 2 and 3 of this act; (4) establish the
102 construction assurance office in accordance with section 4 of this act;
103 and (5) exercise the powers delegated to it in section 10a-109d, as
104 amended by this act. The board may request authority from the
105 Treasurer to issue payment for claims against the university, other
106 than a payment for payroll, debt service payable on state bonds to
107 bondholders, paying agents, or trustees, or any payment the source of
108 which includes the proceeds of a state bond issue.

109 Sec. 6. Section 10a-109c of the general statutes is amended by adding
110 subdivisions (27), (28) and (29) as follows (*Effective July 1, 2006*):

111 (NEW) (27) "Contractor" means any person, firm, corporation or
112 other legal entity (A) seeking prequalification to bid on a contract or
113 seeking the award of a contract, or (B) prequalified to bid on a contract
114 or that has been awarded a contract, in accordance with subsection (c)

115 of section 10a-109n, as amended by this act.

116 (NEW) (28) "Total cost basis contract" means a design-build or
117 construction manager at risk project delivery contract between The
118 University of Connecticut and a contractor, as defined in subdivision
119 (27) of this section, to accomplish multiple elements of a project that
120 may include site acquisition, architectural design, preconstruction
121 activities, project management and construction.

122 (NEW) (29) "Deferred maintenance" means maintenance of an
123 infrastructure or structure, other than maintenance performed solely
124 for code compliance, that was not maintained, repaired or replaced in
125 the usual course of maintenance and repair.

126 Sec. 7. Subdivision (11) of subsection (a) of section 10a-109d of the
127 general statutes is repealed and the following is substituted in lieu
128 thereof (*Effective July 1, 2006*):

129 (11) To make, enter into, execute, deliver and amend any and all
130 contracts, including, but not limited to, total cost basis contracts,
131 agreements, leases, instruments and documents and perform all acts
132 and do all things necessary or convenient to plan, design, acquire,
133 construct, build, enlarge, alter, reconstruct, renovate, improve, equip,
134 finance, maintain and operate projects and to carry out the powers
135 granted by sections 10a-109a to 10a-109y, inclusive, or reasonably
136 implied from those powers.

137 Sec. 8. Subsection (c) of section 10a-109n of the general statutes is
138 repealed and the following is substituted in lieu thereof (*Effective July*
139 *1, 2006*):

140 (c) (1) Any construction contract to which the university is a party
141 may include a provision that the design professional who designed the
142 project, or an architect or professional engineer or construction
143 manager retained or employed specifically for the purpose of
144 supervision, may supervise the work to be performed through to
145 completion and ensure that the materials furnished and the work

146 performed are in accordance with the drawings, plans, specifications
147 and contracts therefor.

148 (2) [With respect to any construction contract] (A) Except as
149 provided in subparagraph (B) of this subdivision, any total cost basis
150 contract or other contract for the construction of a university project
151 which is estimated to cost more than five hundred thousand dollars,
152 [that is to] shall be publicly let [, the university shall identify a list of

153 potentially responsible qualified bidders for the particular contract.

154 Thereafter, the] by the university. The university shall give notice [to
155 those on the list of the work required and of the invitation to
156 prequalify] to contractors interested in prequalifying and contractors
157 prequalified pursuant to section 4a-100, to submit a project proposal or
158 bid, by advertising, at least once, in one or more newspapers having
159 general circulation in the state and by posting the advertisement on the
160 university web site. The [invitation] notice to prequalify shall contain
161 such information as the university [shall deem] deems appropriate,
162 including how to obtain an application to request prequalification, and
163 a statement of the time and place where the responses shall be
164 received. Upon receipt of such responses, the university shall select
165 each [bidder] contractor which has shown itself able to post surety
166 bonds required by such contract and has demonstrated that it
167 possesses the financial, managerial and technical ability and the
168 integrity necessary and without conflict of interest for faithful and
169 efficient performance of the work provided for therein. The university
170 shall evaluate whether a [bidder] contractor is responsible and
171 qualified based on its experience with projects similar to that for which
172 the bid or proposal is to be submitted and based on objective written
173 criteria [and] included in the application to request [for]
174 prequalification with respect to such contract. The university shall also
175 consider whether a [bidder] contractor, and any subcontractor on the
176 [bidder's] contractor's previous projects, has been in compliance with
177 the provisions of part III of chapter 557 and chapter 558 during the
178 previous five calendar years.

179 (B) Notwithstanding the provisions of subparagraph (A) of this

180 subdivision, the board of trustees may approve a total cost basis
181 contract or other contract for the construction of a university project
182 which is estimated to cost more than five hundred thousand dollars
183 that has not been publicly let pursuant to the provisions of said
184 subparagraph (A), provided the board deems the contract to address
185 an emergency.

186 (3) The university shall thereafter give notice to those so
187 prequalified of the time and place where the public letting shall occur
188 and shall include in such notice such information of the work required
189 as appropriate. Each bid or proposal shall be kept sealed until opened
190 publicly at the time and place as set forth in the notice soliciting such
191 bid or proposal. The university shall not award any construction
192 contract, including, but not limited to, any total cost basis contract,
193 after public letting, except to the responsible qualified [bidder]
194 contractor, submitting the lowest bid or proposal in compliance with
195 the bid or proposal requirements of the solicitation document. The
196 university may, however, waive any informality in a bid or proposal,
197 and may either reject all bids or proposals and again advertise for bids
198 or proposals or interview at least three responsible qualified [bidders]
199 contractors and negotiate and enter into with any one of such [bidders]
200 contractors that construction contract which is both fair and reasonable
201 to the university.

202 (4) The [invitation to] notice to each contractor prequalified to
203 submit a proposal or bid and the construction contract, including each
204 total cost basis contract, awarded by the university shall contain such
205 other terms and conditions, and such provisions for penalties as the
206 university may deem appropriate.

207 (5) No payments shall be made by the university on account of any
208 contract for the project awarded by or for the university until the bills
209 or estimates presented for such payment shall have been duly certified
210 to be correct by the university. No payments shall be made from any
211 other fund on account of any contract for any project awarded by or
212 for the university until the bills or estimates presented for such

213 payment shall have been duly certified to be correct by the university.

214 (6) Provision shall be made in each contract to the effect that
215 payment is limited to the amount provided therein and that no liability
216 of the university or state shall and may be incurred beyond such
217 amount.

218 (7) The university shall require, for the protection of the state and
219 the university, such deposits, bonds and security in connection with
220 the submission of bids or proposals, the award of construction
221 contracts and the performance of work as the university shall
222 determine to be appropriate and in the public interest of the state.

223 (8) Any contract awarded by the university shall be a contract with
224 the state acting through the university.

225 (9) The university shall not enter into a design-build project delivery
226 contract for any project without the prior approval of the board of
227 trustees.

228 (10) The university shall not enter into a construction manager at
229 risk project delivery contract that does not provide for a maximum
230 guaranteed price for the cost of construction which shall be
231 determined not later than the time of the receipt and approval by the
232 university of the trade contractor bids. Each construction manager at
233 risk shall invite bids and give notice of opportunities to bid on project
234 elements, by advertising, at least once, in one or more newspapers
235 having general circulation in the state. Each bid shall be kept sealed
236 until opened publicly at the time and place as set forth in the notice
237 soliciting such bid. The construction manager at risk shall, after
238 consultation with and approval by the university, award any related
239 contracts for project elements to the responsible qualified contractor
240 submitting the lowest bid in compliance with the bid requirements,
241 provided (A) the construction manager at risk shall not be eligible to
242 submit a bid for any such project element, and (B) construction shall
243 not begin prior to the determination of the maximum guaranteed
244 price.

245 Sec. 9. (NEW) (*Effective July 1, 2006*) The university, as defined in
246 subdivision (26) of section 10a-109c of the general statutes, as amended
247 by this act, shall conduct reviews of deferred maintenance needs at the
248 university and annually submit to the construction management
249 oversight committee established pursuant to section 3 of this act, an
250 annual budget concerning deferred maintenance, as defined in
251 subdivision (29) of said section 10a-109c.

252 Sec. 10. Section 29-291 of the general statutes is repealed and the
253 following is substituted in lieu thereof (*Effective July 1, 2006*):

254 For the purposes of this part and any other statute related to fire
255 prevention and safety, the Commissioner of Public Safety shall serve as
256 the State Fire Marshal. The commissioner may delegate such powers as
257 the commissioner deems expedient for the proper administration of
258 this part and any other statute related to fire prevention and safety to
259 any employee of (1) the Department of Public Safety, and (2) The
260 University of Connecticut at Storrs Division of Public Safety, provided
261 the commissioner and the president of The University of Connecticut
262 enter into a memorandum of understanding concerning such
263 delegation of powers in accordance with section 12 of this act. [such
264 powers as the commissioner deems expedient for the proper
265 administration of this part and any other statute related to fire
266 prevention and safety.]

267 Sec. 11. Subsection (e) of section 29-252a of the 2006 supplement to
268 the general statutes is repealed and the following is substituted in lieu
269 thereof (*Effective July 1, 2006*):

270 (e) The State Building Inspector or said inspector's designee may
271 inspect or cause to be inspected any construction of buildings or
272 alteration of existing buildings by state agencies, except that said
273 inspector or designee shall inspect or cause an inspection if the
274 building being constructed includes residential occupancies for
275 twenty-five or more persons. The State Building Inspector may order
276 any state agency to comply with the State Building Code. The
277 commissioner may delegate such powers as the commissioner deems

278 expedient for the proper administration of this part and any other
279 statute related to the State Building Code to The University of
280 Connecticut, provided the commissioner and the president of The
281 University of Connecticut enter into a memorandum of understanding
282 concerning such delegation of powers in accordance with section 12 of
283 this act.

284 Sec. 12. (NEW) (*Effective July 1, 2006*) The Commissioner of Public
285 Safety and the president of The University of Connecticut shall enter
286 into and maintain a memorandum of understanding that shall provide
287 for the temporary assignment of personnel from The University of
288 Connecticut at Storrs Division of Public Safety to the Department of
289 Public Safety for the purpose of ensuring compliance with the Fire
290 Safety Code and the State Building Code with respect to buildings or
291 building projects that (1) are part of UCONN 2000, as defined in
292 subdivision (25) of section 10a-109c of the general statutes, as amended
293 by this act, (2) do not exceed threshold limits, as defined in section 29-
294 276b of the general statutes, and (3) are initiated during the period of
295 time in which the memorandum is in effect.

296 Sec. 13. (NEW) (*Effective July 1, 2006*) The university, as defined in
297 subdivision (26) of section 10a-109c of the general statutes, as amended
298 by this act, shall provide that all funds allocated to UCONN 2000, as
299 defined in subdivision (25) of section 10a-109c of the general statutes,
300 as amended by this act, for the purpose of deferred maintenance, as
301 defined in subdivision (29) of section 10a-109c of the general statutes,
302 as amended by this act, shall be expended for such purpose.

303 Sec. 14. (*Effective from passage*) The university, as defined in
304 subdivision (26) of section 10a-109c of the general statutes, as amended
305 by this act, shall (1) account for all funds for deferred maintenance, as
306 defined in subdivision (29) of section 10a-109c of the general statutes,
307 as amended by this act, expended for the purposes of UCONN 2000, as
308 defined in subdivision (25) of section 10a-109c of the general statutes,
309 as amended by this act, prior to the effective date of this section, and
310 (2) inspect all structures of the university and create an inventory of all

311 structures requiring maintenance, the approximate costs of such
 312 maintenance and proposed funding sources for such maintenance. Not
 313 later than October 1, 2006, the university shall report its findings, in
 314 accordance to the provisions of section 11-4a of the general statutes, to
 315 the Board of Trustees for The University of Connecticut and to the joint
 316 standing committee of the General Assembly having cognizance of
 317 matters relating to higher education.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2006</i>	New section
Sec. 2	<i>July 1, 2006</i>	New section
Sec. 3	<i>July 1, 2006</i>	New section
Sec. 4	<i>July 1, 2006</i>	New section
Sec. 5	<i>July 1, 2006</i>	10a-104(b)
Sec. 6	<i>July 1, 2006</i>	10a-109c
Sec. 7	<i>July 1, 2006</i>	10a-109d(a)(11)
Sec. 8	<i>July 1, 2006</i>	10a-109n(c)
Sec. 9	<i>July 1, 2006</i>	New section
Sec. 10	<i>July 1, 2006</i>	29-291
Sec. 11	<i>July 1, 2006</i>	29-252a(e)
Sec. 12	<i>July 1, 2006</i>	New section
Sec. 13	<i>July 1, 2006</i>	New section
Sec. 14	<i>from passage</i>	New section

HED *Joint Favorable Subst. C/R*

APP

APP *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
UConn	GF - Cost	500,000	500,000

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill results in a cost of approximately \$500,000 due to the establishment of a construction assurance office. The exact cost of establishing such an office is dependent on decisions made by a construction management oversight committee created within the bill. No funds have been provided within the FY 07 budget as passed by the Appropriations Committee for this purpose and it is therefore assumed that the University will meet the requirements of the bill with existing resources.

All other sections of the bill result in no additional costs to the University of Connecticut beyond previously anticipated and budgeted items.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5695*****AN ACT CONCERNING CONSTRUCTION OVERSIGHT AT THE UNIVERSITY OF CONNECTICUT.*****SUMMARY:**

This bill establishes two mechanisms to provide independent oversight of UConn 2000 projects: board of trustee audits and an independent committee to review university policies and procedures and compliance with them during the construction process. The bill also (1) requires public bidding on UConn 2000 projects costing over \$500,000, (2) revises the process for UConn to prequalify contractors to bid on UConn 2000 projects, (3) requires UConn and the Department of Public Safety (DPS) to make arrangements for UConn staff to ensure code compliance on UConn 2000 projects, and (4) requires UConn to spend all money allocated for deferred maintenance for that purpose and identify future deferred maintenance needs and costs.

EFFECTIVE DATE: July 1, 2006, except for the provision concerning reporting on deferred maintenance spending and future needs, which is effective on passage.

§§ 1, 2, & 5 - FINANCIAL AUDITS

The bill requires UConn's Board of Trustees to select and appoint independent auditors to conduct annual financial audits of UConn 2000 projects. The auditors must serve for three years, cannot be employed by the university in any other capacity during that period, and may not be reappointed. The board must assure the auditors unfettered access to any documents they need. By law, independent auditors are licensed public accountants who meet the independence standards in generally accepted government auditing standards issued by the U.S. comptroller general.

The board must annually review the auditors' reports. The review must be conducted with no university staff members present.

§§ 3, 4, & 5 - CONSTRUCTION MANAGEMENT OVERSIGHT

The bill establishes a committee to oversee UConn's construction policies and procedures and review projects for their compliance with them. It also requires the UConn board to create an office to review construction performance.

Oversight Committee Composition

The bill establishes a seven-member construction management oversight committee. Four committee members are appointed jointly by the governor and the top six legislative leaders; the board of trustees appoints three members. The governor designates the chairman. Some members must have construction management expertise.

All initial appointments must be made by July 20, 2006. Members' terms must be staggered, but the bill does not establish a process for this. If the board appoints any of its own members to the committee, it must replace them if their term expires or otherwise ends.

Four members constitute a quorum and at least four members must vote to approve committee action. The committee must keep a record of its proceedings, which must indicate attendance and all votes cast by each appointed member. Otherwise, the committee can decide the form these records take.

Appointments to the committee are for four years, and members may not be reappointed. The bill requires the committee to be reconstituted with new members every four years beginning July 20, 2010 following the same appointment procedures.

Construction Assurance Office

The bill requires the UConn trustees to establish a Construction Assurance Office by August 1, 2006. The office is to have paid staff and a full-time director responsible for reviewing construction

performance of UConn 2000 and reporting at least quarterly to the oversight committee and UConn's president.

Oversight Committee Responsibilities

The bill requires the committee to review and approve UConn 2000 policies and procedures and review construction performance under the program. It must approve university policies and procedures governing (1) selection of design professionals and contractors, (2) award of goods and services contracts, (3) contract compliance, (4) building and fire code compliance, (5) deferred maintenance and annual deferred maintenance budgets, (6) project and program budgets and schedules, and (7) authorization and review of contract changes.

Every two years, the committee must prepare a summary of UConn 2000 construction performance based on reports it receives from the Construction Assurance Office. It must review the university's management of each completed project for conformance with the university's construction policies and procedures. This review must incorporate information from Construction Assurance Office reports.

The committee must submit all of its summaries, reports, and reviews to the board of trustees, which must review them without university personnel present.

§§ 6-8 - CONTRACTING

Public Bidding Requirement

The bill requires public bidding for any UConn 2000 project whose estimated cost is over \$500,000. But it permits the board of trustees to approve a no-bid contract over \$500,000 if it determines that the contract addresses an emergency. Current law does not explicitly require public bidding on any UConn 2000 project.

"Total Cost Basis Contracts"

The bill explicitly permits UConn to enter into "total cost basis contracts," which it defines as "design-build" or "construction

manager at risk” project delivery contracts through which multiple elements of a project are accomplished. These contractual elements may include site acquisition, architectural design, preconstruction activities, project management, and construction.

The law already allows UConn 2000 contracts that permit the professional who designed a project, or an architect, professional engineer, or construction manager retained specifically for supervision, to supervise work on the project until it is completed in order to ensure that it is done according to specifications and contract requirements.

Contractor Prequalification

The bill revises the process for UConn to prequalify contractors to bid on UConn 2000 projects. Current law requires UConn to identify potential responsible qualified bidders for a particular contract and invite them to prequalify by giving them information it deems appropriate and telling them where and when to respond. The bill requires the university to provide notice by advertising at least once in one or more statewide general circulation newspaper and posting the advertisement on the university website. The advertisements must invite contractors to submit a project proposal or bid and include information on how to obtain a prequalification application, in addition to other information UConn deems appropriate.

By law, the university must select prequalified contractors based on their financial, technical, and managerial ability; ability to post surety; integrity; experience in similar projects; and whether the contractor, and its subcontractors, has in the past five years complied with state wage and hour laws and those relating to state contracts.

Design-Build and Construction Management Contracts

The bill requires UConn’s Board of Trustees to approve a design-build contract for any UConn 2000 project before university officials can sign it.

The bill prohibits university officials from entering into a

construction manager at risk contract that does not contain a guaranteed maximum price (GMP) for construction to be determined no later than the time they receive and approve trade contractor (i.e., subcontractor) bids. The construction manager's contract with its subcontractors must state that construction cannot begin until the GMP is set.

Under the bill, subcontractor bids on construction manager at risk projects must be publicly bid. A project's construction manager must solicit bids by advertising at least once in one or more newspapers with general circulation in the state. Bids must be kept sealed. After consulting with and getting the university's approval, the construction manager must award subcontracts to the responsible, qualified contractors with the lowest bids. The bill prohibits the construction manager from bidding on subcontracts.

Other Contracting Provisions

The bill extends to proposals submitted for UConn 2000 projects the law's requirements governing public bids. These include sealing them until the public opening, awarding contracts to the contractors submitting the lowest responsible qualified proposal, and rebidding or negotiating with contractors if UConn rejects all initial proposals.

§§ 10-12 - CODE COMPLIANCE

The bill requires UConn's president and the public safety commissioner to enter and maintain a memorandum of understanding (MOU) that temporarily assigns university public safety staff to DPS to ensure fire and building code compliance on certain UConn 2000 projects. The MOU is to cover buildings and projects (1) begun while it is in effect and (2) that are under the state's threshold limits.

The bill permits the commissioner to delegate all or part of his authority to enforce building code compliance to UConn through an MOU. He can already delegate his fire safety code compliance powers to UConn's Storrs Division of Public Safety; the bill specifies that this must be done through an MOU with the president.

§§ 6, 9, 13, 14 - DEFERRED MAINTENANCE

The bill requires the university to:

1. spend all money allocated to UConn 2000 for deferred maintenance for that purpose;
2. review its deferred maintenance needs and annually submit a deferred maintenance budget to the construction management oversight committee;
3. account for all deferred maintenance funds spent on UConn 2000 projects before the bill's effective date; and
4. inspect all university structures (but not infrastructure), inventory their maintenance needs, estimate the maintenance cost, and identify proposed sources to pay for the maintenance. The university must report its previous deferred maintenance spending and future needs and costs to the board of trustees and the Higher Education and Employment Advancement Committee by October 1, 2006.

The bill defines deferred maintenance as maintenance of structures and infrastructure, except for work needed for code compliance, that was not maintained, repaired, or replaced in the usual course of maintenance and repair.

BACKGROUND***Design-Build Projects***

In a design-build project, the owner develops a project scope and criteria, including identifying a site, determining program and space needs, project goals and performance criteria, and, in some cases a preliminary budget. At this stage, it solicits proposals from prospective design-build teams that include the project architect, engineers, specialty consultants, and the contractor to handle the entire project. The owner and the design-build team it selects execute a single, fixed-price contract for all architectural, engineering, and construction services. The design-build entity offers the owner a single point of

project responsibility and includes all the design professionals and subcontractors needed to complete the project. It assumes responsibility for the design work and all construction activities and the risk of providing them within the agreed-upon project price.

Construction Manager at Risk

In a construction manager (CM) at risk project, the owner hires a firm with construction experience, usually during a project's design phase to manage the entire construction process. The CM provides pre-construction services such as estimating costs, budgeting, reviewing constructability and suggesting construction alternatives ("value engineering"), and scheduling. Once the design is finalized, the CM seeks bids from subcontractors for each project element (e.g., electrical, mechanical, carpentry, roofing). Once the subcontractors' competitive bids are received and verified for compliance with project requirements, scope, and specifications, the CM and the project owner then negotiate and set a GMP for the construction phase. The CM assumes the risk to complete the project within the GMP.

The GMP includes the CM's fee, the cost of the work, and contingency funds for the project. The CM is responsible for costs that exceed the GMP, excluding any work not included in the final GMP that the owner authorizes through a change order process.

Threshold Limits

The law requires new construction and additions to most state buildings over a statutorily set "threshold" size to receive a building permit and certificate of occupancy (CO) from the state building inspector. The threshold limits are (1) four stories, (2) 60-feet high, (3) a clear span of 150 feet wide, (4) 150,000 square feet of floor space, or (5) occupancy by 1,000 or more people.

A newly constructed or altered state building that falls below these threshold limits needs neither a building permit or a CO. Before such a building can be used, the agency responsible for the project must certify to the state building inspector that it complies with the State

Building and Fire Safety Codes.

MOU

The UConn president and the public safety commissioner entered into an MOU on December 1, 2005 through which UConn has assigned six employees to perform building and fire code inspections for nonthreshold buildings that are part of UConn 2000 projects. These personnel report directly to the state building inspector and state fire marshal. The MOU expires on October 31, 2006 and may be extended by mutual agreement for one-year terms.

COMMITTEE ACTION

Higher Education and Employment Advancement Committee

Joint Favorable Substitute Change of Reference

Yea 20 Nay 0 (03/14/2006)

Appropriations Committee

Joint Favorable

Yea 53 Nay 0 (03/31/2006)